IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 187 of 1992

Date of Decision :- March 19, 2007

Hari Ram and others ....PETITIONER

VERSUS

State of Haryana ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. D.N.Ganeriwala, Advocate
for the petitioners.

Mr. Kulvir Narwal, Addl. Advocate General, Haryana.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 5.10.1991 of the Additional Sessions Judge, Sirsa dismissing the appeal of petitioners against judgment dated 24.9.1990 of the Chief Judicial Magistrate, Sirsa convicting Hari Ram son of Jamna Ram, Desh Raj son of Hari Ram, Rameshwar son of Hari and Rami Bai w/o Hari under Sections 435/34 IPC and convicting accused Hari Ram under Section 323 IPC. All the three accused were ordered to be released on probation.

The case of the prosecution is that on 5.7.1984 Nankau Parshad made a statement Ex.PA before ASI Hoshiar Singh in Civil

Hospital, Sirsa that buffaloes of Hari Ram accused used to stray into his fields and ate fodder. Kamla Devi w/o Nankau Ram lodged a protest. She was beaten by Rami Bai w/o accused Hari Ram and his two daughters for loding a protest. Hari Ram, who was working in a shop, came to know about this incident. Complainant along with one Om Parkash and Mani Ram went in a three-wheeler to lodge a protest with Hari Ram accused. Hari Ram accused, along with his two sons Des Raj and Rameshwar, came out of his house armed with lathis. Des Raj gave a lathi blow on the right shoulder of Nankau Parshad. Rameshwar gave a lathi blow on his right leg. Rami Bai w/o Hari Ram and Savitri d/o Hari Ram came there with lathis. They snatched their lathis and gave injuries to Hari Ram and others in the right of private defence. The three wheeler was taken away by the accused and set on fire.

The prosecution to prove its case brought into the witness box Nankau Parshad as PW1, Om Parkash as PW2, Mani Ram as PW3, Subhash Chander as PW4, Kamla Devi as PW5, ASI Hoshiar Singh as PW6 and Dr. Partap Singh as PW7.

Learned counsel for the petitioners has argued, that it is the complainant party, who were aggressors. Petitioners gave injuries to the complaint party in the right of private defence. From the side of the petitioners, Hari Ram, Des Raj, Savitri and Rami Bai were injured by the complainant party.

Learned counsel for the State has argued, that the petitioners were aggressors, from seeing the number of injuries, as spelt out by Dr. Partap Singh PW7, vide his medico legal report Ex.PW7/A, that the

injuries on the person of Nankau Parshad was found on the orbital region and on his shoulders.

I have heard the learned counsel for the parties, perused the record and the impugned judgments with their assistance.

The learned appellate Court has rightly held after going through the statements of Nankau Parshad PW1, ASI Hoshiar Singh PW6, Om Parkash PW2, Mani Ram PW3, Subhash Chander PW4 and Kamla Devi PW5 and the medical evidence, as propounded by Dr. Partap Singh, that it was a case of free fight. The petitioners/accused were the aggressors. The prosecution witnesses have stated, that Nankau Parshad PW1 went to lodge the protest and it is then that the petitioners attacked him.

I do not find any infirmity in the judgment of the learned Additional Sessions Judge, Sirsa.

Dismissed.

March 19, 2007 **(MEHTAB S.GILL)**
ska **JUDGE**